IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN
&
THE HONOURABLE MR. JUSTICE A.K.BASHEER

FRIDAY, THE 13TH APRIL 2007 / 23RD CHAITHRA 1929

WP(C).No. 13225 of 2007(S)

OA.14/2007 of CENTRAL ADMINISTRATIVE TRIBUNAL,ERNAKULAM BENCH
.....

PETITIONER:

A.P.MULLAKOYA, S/O.UDUMAN,
FIREMAN, POLICE STATION, MINICOY,
U.T.OF LAKSHADWEEP, MINICOY ISLAND.

BY ADV. SRI.M.V.THAMBAN
SRI.V.K.SATHYANATHAN

RESPONDENTS:
---

1. THE SUPERINTENDENT OF POLICE,
UNION TERITORY OF LAKSHADWEEP, KAVARATTY.

2. THE ADMINISTRATOR,
UNION TERITORY OF LAKSHADWEEP, KAVARATTY.

3. UNION OF INDIA,REPRESENTED BY THE
SECRETARY, MINISTRY OF HOME AFFAIRS,
NEW DELHI.

4. C.K.AZEEZ, FIREMAN,
SUB OFFICER TRAINED, C/O. DIRECTOR,
NATIONAL FIRE INSTITUTE, TAMIL NADU FIRE AND
RESCUE TRAINING CENTRE, CHENNAI-47.

5. THE DIRECTOR,
NATIONAL FIRE SERVICE COLLEGE,
NAGPUR.

6. DIRECTOR,
NATIONAL FIRE INSTITUTE TAMIL NADU FIRE AND RESCUE
TRAINING CENTRE, CHENNAI-47.

R1 & 2 BY SC SHRI. S. RADHAKRISHNAN
R3 BY ASST. SOL. GENERAL SHRI. JOHN VARGHESE
R4 BY ADV SHRI. V.P. SEEMANDHINI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K.DENESAN & A.K. BASHEER, JJ.

W.P(C) NO:13225 OF 2007

Dated this the 13th April, 2007.

JUDGMENT

Denesan, J.

It is not in dispute that the fourth respondent was admitted to the training. It is also admitted position that an order was passed recalling him from the training in the midst of the training period. To a specific query put by us to the counsel appearing for the petitioner as to what would happen to the seat that may become vacant on the fourth respondent/applicant in the impugned order is recalled. Learned counsel unhesitatingly submits that the petitioner in this writ petition is not concerned about that. We are not likely to be wrong in inferring from the above answer that the petitioner wants to feel the pleasure of seeing that the first respondent is recalled before he completes the training even if he may not be able to substitute the fourth respondent. Though the counsel submit that the chances of the petitioner will be postponed unless the fourth respondent is recalled, we fail to understand how such a result will ensue merely for the reason that the fourth respondent is allowed to complete the course provisionally. Nobody will gain by keeping the seat vacant for the remaining period. We think, since the

fourth respondent has been allowed to undergo the training during the pendency of the O.A, it has to be ensured that his attending the training and his completing the training shall be at his own risk and without prejudice to the rights of others, if any, including the petitioner. We find that the very first order passed by the Tribunal specifically mention that the admission given to the fourth respondent for the training will be provisional. While the fourth respondent was undergoing the training, another order was passed by the authorities recalling the fourth respondent without substituting any person in the vacant place.

2. We take notice of the averments made by the fourth respondent in the affidavit filed before the Tribunal that even if strict seniority is observed, the petitioner will not be the beneficiary. There is no specific answer to that aspect of the matter in the writ petition. The impugned order passed by the Tribunal in the I.A does not require interference under ARt.226 of the Constitution of India. The matter will have to be considered on merits in the O.A and early decision taken as early as possible. We make it clear that the continuance of the fourth respondent in the training course as also the completion of the training will be subject to the result of the O.A, at the

risk of the fourth respondent and without prejudice to the rights of any other person who has got the right to get admission for the training in the event of the O.A being allowed. Writ petition is dismissed subject to the above observations.

K.K.DENESAN
Judge

A.K. BASHEER
Judge

jj

K.K.DENESAN & V. RAMKUMAR, JJ.

M.F.A.NO:

JUDGMENT

Dated: